

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
AUG 22 2016
Clerk, U.S. District Court
District Of Montana
Missoula

KERMIT POULSON,

Plaintiff,

vs.

SGT. RICHTER,

Defendant.

CV 14-185-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and a Recommendation on July 27, 2016, recommending granting Defendant Reese Richter's ("Richter") motion for summary judgment. Plaintiff Kermit Poulson ("Poulson") failed to timely object to the Findings and Recommendation, and so waived his right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000)

(citations omitted).

Having reviewed the Findings and Recommendation, the Court finds no clear error in Judge Lynch's conclusion that: (1) Richter is not liable for the alleged constitutional violations because he was not personally involved with the conditions of Poulson's confinement or his medical treatment; (2) Richter is not liable for the claims of retaliation because he was not personally involved with the alleged retaliatory conduct; and (3) Richter is entitled summary judgment on the due process claims because Poulson was afforded due process on the first two disciplinary charges and was not deprived of a recognized liberty interest on the third disciplinary write-up.

There being no clear error in Judge Lynch's Findings and Recommendation, IT IS ORDERED that:

(1) Judge Lynch's Findings and Recommendation (Doc. 9) are ADOPTED IN FULL.

(2) Defendant Richter's Motion for Summary Judgment (Doc. 64) is GRANTED. This action is DISMISSED.

(3) The Clerk of Court is directed to enter by separate document a judgment in favor of Defendant and against Plaintiff.

Dated this 22nd day of August, 2016.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge
United States District Court